

EUDO CITIZENSHIP OBSERVATORY

NATURALISATION PROCEDURES FOR IMMIGRANTS TURKEY

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Naturalisation Procedures for Immigrants

Turkey

Zeynep Kadirbeyoğlu

This report focuses on the ordinary naturalisation process in Turkey and addresses administrative practices and procedures on naturalisation. The constitution of Turkey stipulates that the acquisition or loss of Turkish citizenship can only be regulated by the law. The law currently regulating the acquisition and loss of Turkish citizenship was put into effect in 2009 (henceforth the Law).¹ The Law is implemented through the Regulation on the Implementation of Turkish Citizenship Law (henceforth the Regulation). The naturalisation process is managed by NVI (*Nüfus ve Vatandaşlık İşleri Genel Müdürlüğü* - General Directorate of Civil Registration and Nationality) which operates under the aegis of the Ministry of Interior (henceforth the Ministry). Since the process is centralised there are no differences of procedures in different provinces. Those who apply for naturalisation have to apply to the governor's office in the province of residence.

There are no explicit promotion activities organised by the national government. There are no naturalisation campaigns or information and counseling services offered for naturalisation applicants. There are no publicly-run or subsidised language or integration courses for naturalisation. The webpage of the NVI contains information on the conditions, application forms and frequently asked questions about naturalisation. The documents that should be provided are written on the reverse of the application form which can be downloaded from the forms page. The web page also has an application status check page. The applicant can check the status of the application process through this web page or through contacting the public relations department of the NVI.

The governors' offices in provinces also have web pages that may contain information on naturalisation (see for instance <http://www.istanbul.gov.tr/?pid=13804> for the document list of Istanbul Governor's Office). The requirements are written in simplified language on all web pages containing information. However, sometimes interpretation of conditions may not be as simple as the wording makes it sound. For instance, in order to understand what uninterrupted residence duration of 5 years means the applicant needs to have read the Regulation.

The application forms are available online on the web page of the NVI and can be downloaded. However, online submission of application forms is not possible. The forms can also be found in the governor's offices in provinces. The usual procedure is such that a person willing to naturalise goes first to the Provincial Police Headquarters and gets a document showing the entry and exit dates to Turkey and the calculation of residence duration. If the duration of uninterrupted residence exceeds 5 years then the person can apply for

¹ Law No. 5901/2009 replaced the previous law (Law No. 403/1964 on Turkish Citizenship) and intended to eliminate the inconsistencies of the previous law while also responding to current circumstances, such as harmonising the law with the European Convention on Nationality.

naturalisation by filling up the form in the governor's office – more specifically in the Provincial Directorate of Civil Registration.

Article 15 of the Regulation stipulates that the applicant should fulfill the following conditions in order to apply for naturalisation and become a citizen upon the decision of the Ministry:

- a) to be an adult according to the law of the applicant's home country or according to the Turkish Civil Code if the applicant is stateless.
- b) to have an uninterrupted residence in Turkey for 5 years.
- c) to demonstrate the intention to settle in Turkey by acquiring real estate, by setting up a business, by investing, by transferring his/her office to Turkey, to be employed in Turkey by acquiring a work permit or the like or by being married to a Turkish citizen, by applying for naturalisation as a family, to have family members who have already naturalised in Turkey or to have completed his/her education in Turkey.
- d) not to have a disease that can threaten public health.
- e) to behave responsibly in society, to garner trust and not to have any bad habits that can go against the values of society.
- f) to speak enough Turkish to get by in daily life.
- g) to have a job or revenue to support himself/herself and dependents.
- h) not to be in a situation to threaten national security and public order.

Citizens of some countries who would like to naturalise may be asked to relinquish their previous citizenship in addition to fulfilling the conditions stated above. The council of ministers is in charge of determining the list of countries whose citizens will have to relinquish their previous citizenship. If the application is approved then the applicant needs to provide a document at the last stage proving that they have relinquished their previous citizenship.

Applicants are required to submit the following documentation:

- a. Application form for ordinary naturalisation.
- b. Certified translation of passport or other document showing the country of citizenship of the applicant. If the applicant is stateless then the certified Turkish translation of a properly approved document should be provided.²
- c. Certified translation of birth certificate or civil registry document that displays the applicant's identity information. If the person is married, a civil registration document (family civil registration document) or a similar document proving the family connection of his/her spouse and children.

² If the applicant has multiple citizenship then upon research carried out by the Ministry, the country with which the applicant has the most ties will be considered the country of citizenship of the applicant (article 64 of the Regulation).

d. For children who are under the custody of a mother or a father and who will apply for naturalisation along with the applicant, then a consent document from the other parent is required. This consent letter should be certified or be written in the presence of the authorities if in Turkey or in embassies/consulates if abroad. If the consent document is prepared by the authorities of a country other than Turkey then a certified Turkish translation is required.

e. Certified translation of civil status, if single: a document showing the applicant is single. If married: marriage certificate. If divorced: divorce document. If widowed: marriage certificate and death certificate of the husband.

f. A health document, the principles and procedures of which are determined by the Ministry of Health indicating that the person is free from any disease constituting a threat to public health.³

g. Work permit, tax number or another document proving that the applicant has a job or revenue to support him/herself and dependents.

h. Document from Provincial Police Headquarters showing the entry and exit records of the applicant and residence calculation showing that the applicant has resided in Turkey for at least 5 years.

i. Residence permit for at least the next 6 months from the date of application.⁴ If a person's residence permit expires during the process, then he/she is required to send a renewed residence permit. This is the only document that may necessitate an update during the process.

j. A copy of the court ruling if the applicant has been found guilty of a crime.⁵

k. Receipt showing that the application fee has been paid – the application fee for ordinary naturalisation is 100 Turkish Lira.⁶

l. If the applicant has first or second degree relatives who are citizens of Turkey then the folder should include a document of the registry of the relatives.

³ In practice the Ministry of Health has not yet published the details of what a report should entail. Therefore, any health report acquired in state hospitals is accepted.

⁴ The reverse of the application form states that the duration of the residence permit should be at least 6 months from the date of application. The information on the Istanbul Governorate web page indicates that this should be 3 months. The Regulation stipulates that the duration of the residence permit should be enough to allow for the application to be processed and decided.

⁵ The applicant is not required to submit criminal records from their home country or from third countries.

⁶ The amount of the application fee is written in the Circular 2009/10 – 03/08/2009. Each family member has to file a separate application and there are no family or group discounts for ordinary naturalisation.

Although a language proficiency document is not required according to the Regulation, the list of documents on the reverse of the application form or on the governor's web page states that the applicant should submit a document from Directorate of National Education showing that the applicant can speak enough Turkish to get by in daily life or a document showing that the person is learning Turkish in a Ministry of National Education affiliated institution. In practice, however, the level of language proficiency of the applicant is evaluated only during the interview by the commission. Therefore, the application form and the Istanbul governor's web page include misleading information.

According to article 39 of the Regulation, applicants who are stateless, those who cannot procure the necessary documentation or those whose country of citizenship cannot provide the necessary documentation can notify the governor's office which then communicates this to the Ministry. Following the response of the Ministry the applicant may be asked to submit the information in writing. If the applicant is found to have submitted false information then the acquisition of citizenship will be cancelled. There is also an exemption from the fee for those without income – although this is rarely the case for ordinary naturalisation cases since one of the conditions is that the applicant has the revenue to support him/herself and the dependents.⁷

The naturalisation process is discretionary. Hence, an applicant who fulfills all the conditions and has submitted all documents can be rejected access to citizenship. The rejection has to be based on an article of the Law or the Regulation. Especially the conditions c (intention to settle), e (accommodating to the values of society) and h (national security) can be interpreted in a discretionary way. The discretionary nature of naturalisation, despite the fulfillment of all the conditions, is upheld by Council of State decision stating that discretion is justified by reference to state sovereignty (Aybay, 2008: 121) and is clearly stated on the web page of the NVI as well.

Citizenship applications are made to the governors' office where the applicant resides or to the embassies if the applicant resides abroad. However, since a residence permit is required in the case of ordinary naturalisation procedures, the application authority is the governor's office. The department in charge of receiving and checking whether all documents are present is the Directorate of Civil Registration in each province operating within the governor's office. However, first the applicant goes to the Provincial Police Headquarters which checks the date when the applicant arrived in Turkey, the category of residence permit, the residence duration, whether the person went abroad during residence duration and the dates of entry and exit. If the applicant fulfills the uninterrupted residence of 5 years then they can fill up the forms for application and submit the documents required for application. Once the application is made to the governor's office, Article 18 of the Law stipulates that the Citizenship Application Examination Commission (henceforth the Commission) formed in each province determines whether the applicant meets the conditions for application. The formation and working principles of the Commission are determined by the Regulation.

Article 16 of the Regulation states that the governor's office carries out a preliminary check of the applicant's file and rejects applications of those who are not an adult, who have not completed five years of uninterrupted residence⁸ in Turkey, who have resided in Turkey

⁷ Although personal communication with the director of Civil Registry and Population in Ankara revealed that this exemption is rarely or never granted, it could be that the person has a profession which he/she can put to use upon naturalization – such as being a medical doctor – and therefore may lack sufficient income and funds prior to naturalization.

⁸ For residence to be considered uninterrupted the person should have a valid residence permit for the entire duration of residence and should not stay abroad for more than six months in total. If the person did not stay abroad for more than 6 months then this period is counted towards the residence duration of 5 years (article 71 of

without a residence permit or those who have a residence permit but have not shown an intention to settle in Turkey (such as those who have a residence permit as students, as the accompanying parent of a child receiving education, as a person receiving medical treatment in Turkey and those who have made asylum application), who have been convicted of a crime or who is being tried for a crime and those who cannot submit the documents mentioned in article 17 of the Regulation. The decision to reject the application is sent in writing to the applicant.

Article 19 of the Law states that the governor's office puts together a citizenship application file for those who satisfy the conditions for application. The application is examined by the Commission⁹ which is chaired by the governor or vice-governor, and has a representative from the provincial branches of the following institutions: Civil Registration and Nationality, Police Headquarters, Gendarmerie, Directorate of Education, Directorate of Social Work and representatives from other institutions if the chair of the commission sees necessary. The governor's office determines how often the commission meets depending on the number of applications but the commission meets at the latest 15 days after the application. The commission examines the documents of the applicant and determines whether the person fulfills the conditions for application and carries out an interview with the applicant.¹⁰ The interview is intended to check whether the applicant is of Turkish descent, whether he/she can speak Turkish, how he/she makes a living, whether he/she can accommodate Turkey's constitutional order and social life. The commission's comments are written on the application form. If the commission sees necessary then an inquiry of the applicant can be carried out by public authorities (police if in urban areas and gendarme if in rural areas). The Provincial Police Headquarters is requested to check whether the applicant presents a threat to national security and public order and whether he/she has good morals.¹¹ The information received from the Police Headquarters is written on the form. The commission's comments and the results of the police inquiry are sent to the General Directorate in the Ministry in Ankara.

The General Directorate carries out the procedures for the acquisition of Turkish citizenship. Once the documents are checked at the General Directorate – which is the second but more thorough check of the documents – a request is sent to the Turkish National Police and National Intelligence Organisation for the security archive check. Applicants who have been sentenced to prison for more than 6 months are not granted citizenship.¹²

The decision to grant citizenship or reject naturalisation application is made by the NVI, hence the Ministry. The governor's office where the applicant had submitted the application is notified by the Ministry once the decision is made and they communicate the decision to the applicant. According to article 20 of the Law, the person is considered a Turkish citizen once the Ministry accepts the application. There is no ceremony for citizenship.

the Regulation). The same article of the Regulation stipulates that if there is a change in the status of residence of those who have a residence permit as students, as an accompanying parent of a child receiving education, as a person receiving medical treatment in Turkey and those who have made asylum application, and they received a work permit or regular residence permit then the previous residence is counted towards the 5 years. Those who resided in Turkey with a tourist visa are excluded from this opportunity.

⁹ Article 69 of the Regulation.

¹⁰ Article 19 of the Regulation determines the duties of the Commission.

¹¹ Article 18 of the Regulation.

¹² Article 72 of the Regulation.

The fee for ordinary naturalisation is 100 Turkish Liras (TL)¹³ and there are no exemptions except for those who do not have an income or the means to support themselves. However, since one of the requirements of application is to prove that the person can support himself/herself and dependents, this exemption is rarely or never necessary. As the director of Civil Registration and Nationality indicated during an interview, the condition for sufficient income should be interpreted in the large sense as to whether the person can find a job to make a living following naturalisation. Additional costs are incurred for translation and certification of documents such as passports, birth certificates and the like. For instance certification of a passport costs around 60TL. Translation of passport, birth certificate and civil status document, for instance, costs around 45TL. Therefore, translation and certification of the documents of an application file costs around 350-400TL.¹⁴

There is no official time limit for the application process but the ministry has adopted ISO (International Standards Organisation) 9001 standards of operation. A complete file that does not have delays during the security check is processed on average in 4 months. The ministry processes the applications in no more than 6 months once it reaches them. However, security checks or missing documents can extend the process to 1 year. In order to speed the delivery of documents and files to the NVI from the governor's offices, the Ministry has devised an electronic citizenship system which allows authorities in the governor's offices to fill in forms online and send documents via the online system to the Ministry.

Applicants who receive a rejection are notified in writing and they can appeal to the court in the 60 days after the decision is made. The appeal is made to the administrative court in Ankara since the Ministry is in Ankara. The appeal can challenge the decision and the justification for the decision. If the court decides that the decision was not justified, then it can decide to annul the decision of the Ministry. The Ministry can then appeal to the 10th Chamber of the Council of State (Danıştay 10. Hukuk Dairesi) for the annulment of the court decision. If the Council of State upholds the decision of the administrative court then the rejection decision is annulled and the person's file proceeds to the following step which is the approval of the Ministry. An examination of the decisions of the Council of State reveals that in cases where the discretionary powers of the Ministry is challenged, the Council of State has decided to annul the decision of the administrative court, hence approving the Ministry's rejection of the application. An example is the case of a Jordanian citizen who studied in Turkey for his/her bachelor's degree and who has a Turkish citizen spouse and children. The Ministry decided that the person presents a threat to national security and rejected the application. The applicant went to the administrative court and won the case because the court decided that the decision to reject was based on rumor rather than documents. However, the Council of State overturned the decision of the administrative court stating that there is no procurement in the law which states that the person should be granted citizenship upon satisfying all the conditions and that the discretionary powers of the Ministry are established in order to protect national security.¹⁵

Reference:

Aybay, R. (2008), *Vatandaşlık Hukuku* [Citizenship Law]. İstanbul: Bilgi University Press.

¹³ 1 Euro is approximately 2.22TL (July 2012). Therefore, 100TL is about 45 Euros.

¹⁴ These estimates are for translation from English valid for July 2012. Costs may vary according to the language and according to the length of the document.

¹⁵ 10th Chamber of Council of State, Matter No. 1996/2993, Decision No. 1997/4168, Decision date: 06.11.1997. The decisions of the courts are available from the web page of the NVI.

